

ORIGINAL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

AUG 15 2011

John A. Clarke, Executive Officer/Clerk
By _____ Deputy

Tina Jacquez

MWD
AUG 15 2011

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

THE LAW OFFICES OF KRAMER AND KASLOW, a California professional law corporation and also doing business as K2 LAW, MASS LITIGATION ALLIANCE and CONSOLIDATED LITIGATION GROUP; PHILIP ALLEN KRAMER, an individual; MITCHELL J. STEIN & ASSOCIATES, INC., a California corporation; MITCHELL J. STEIN, an individual and doing business as MITCHELL J. STEIN & ASSOCIATES; CHRISTOPHER VAN SON, an individual and doing business as THE LAW OFFICES OF CHRISTOPHER J. VAN SON and CONSOLIDATED LITIGATION GROUP; MESA LAW GROUP CORP., a California corporation; PAUL WARREN PETERSEN, an individual; ATTORNEYS PROCESSING CENTER, LLC, a California limited liability company and also doing business as ATTORNEY PROCESSING CENTER and PROCESSING CENTER; DATA MANAGEMENT, LLC, a California limited liability company; GARY DIGIROLAMO, an individual; BILL MERRILL STEPHENSON,

Case No. LC094571

[REDACTED] TEMPORARY RESTRAINING ORDER, ASSET FREEZE AND ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

an individual; MITIGATION PROFESSIONALS, LLC, a California limited liability company, and doing business as K2 LAW; GLEN RENEAU, an individual; PATE, MARIER AND ASSOCIATES, INC., a California corporation; JAMES ERIC PATE, an individual; RYAN WILLIAM MARIER, an individual; HOME RETENTION DIVISION, a business organization of unknown form; MICHAEL ANTHONY TAPIA, an individual and doing business as CUSTOMER SOLUTIONS GROUP and HOME RETENTION DIVISION; LEWIS MARKETING CORP., a California corporation; CLARENCE JOHN BUTT, an individual; THOMAS DAVID PHANCO, an individual; and DOES 1 through 100, inclusive,

Defendants.

1 On August __, 2011, the Court heard the *ex parte* application of Plaintiff, the People of
2 the State of California (Plaintiff or the People), for a Temporary Restraining Order, Asset Freeze
3 and an Order to Show Cause why a preliminary injunction should not issue in accord with the
4 Temporary Restraining Order. On reading the complaint in this matter, the People's *ex parte*
5 application, the memorandum of points and authorities and declarations submitted in support of
6 the application, and considering the arguments of counsel, the Court finds as follows:

7 1. There is good cause to believe that Defendants have engaged, and are likely to
8 engage, in acts that violate Business and Professions Code section 17200 et seq. (Unfair
9 Competition Law) and section 17500 (False Advertising Law), and that the People are likely to
10 prevail on the merits of this action.

11 2. There is good cause to believe that immediate and irreparable harm will result
12 from Defendants' ongoing violations of the Unfair Competition Law and False Advertising Law,
13 unless Defendants are restrained and enjoined by order of this Court.

14 3. There is good cause to believe that immediate and irreparable damage to the
15 Court's ability to grant effective final relief in the form of permanent injunctive relief, rescission,
16 restitution, disgorgement, or other equitable monetary relief will occur from the sale, transfer, or
17 other disposition or concealment by Defendants of assets or business documents or records if
18 Defendants are provided with advance notice of this Order, and that in accordance with Code of
19 Civil Procedure 527, subsection (c), the interests of justice require that this Order be granted
20 without prior notice to Defendants. There is good cause for relieving the People of the duty to
21 provide Defendants with prior notice of the People's application.

22 4. Considering the People's likelihood of ultimate success and weighing the equities,
23 a Temporary Restraining Order with an asset freeze and other equitable relief is in the public
24 interest.

25 5. In accordance with Code of Civil Procedure section 995.220(a), no bond is
26 required of the People.

27
28

1 **ORDER**

2 **RESTRICTIONS ON BUSINESS ACTIVITIES**

3 IT IS ORDERED that, pursuant to Business and Professions Code sections 17203 and
4 17535 and Government Code section 12527, until the hearing on the order to show cause
5 regarding the preliminary injunction, Defendants and their agents, employees, officers,
6 representatives, successors, partners, assigns, and those acting in concert or in participation with
7 them, whether acting directly or through an corporation, subsidiary, division, or other device, are
8 enjoined from committing or performing the following acts:

9 1. Making or causing to be made, or assisting others who are making or causing to be
10 made, any untrue or misleading statements to consumers, in connection with any proposed or
11 actual lawsuit or settlement with their home mortgage lender, including, but not limited to, any
12 misrepresentations that state or imply that:

13 a. Defendants obtained a settlement of a lawsuit, or that a settlement is
14 imminent or likely to occur;

15 b. Defendants have filed a lawsuit against a lender if no such lawsuit has been
16 filed;

17 c. Defendants' proposed or actual lawsuit will provide, or is likely to provide,
18 outcomes including the following:

19 (1) a certain fixed rate for the life of the loan (e.g., 2% fixed rate);

20 (2) a loan principal reduction (e.g., to 70% or 80% of the value of
21 the property);

22 (3) foreclosure protection (e.g., stopping or delaying
23 foreclosures);

24 (4) actual or punitive damages;

25 (5) obtaining homes free and clear of any mortgage or loan
26 obligation; and

27 (6) elimination of any negative reporting to a credit agency;

28 d. Defendants' lawsuit has obtained the following relief for consumers:

(1) a certain fixed rate for the life of the loan (e.g., 2% fixed
rate);

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (2) a loan principal reduction (e.g., to 70% or 80% of the value of the property);
- (3) foreclosure protection (e.g., stopping or delaying foreclosures);
- (4) actual or punitive damages;
- (5) obtaining homes free and clear of any mortgage or loan obligation; or
- (6) elimination of any negative reporting to a credit agency;

e. Specifically regarding the mass joinder lawsuit *Ronald v. Bank of America*

(Los Angeles County Superior Court Case No. BC409444) filed on March 12, 2009 (*Ronald*):

- (1) Defendants obtained court injunctions for consumers in *Ronald*;
- (2) Defendants obtained court orders rescinding notices of default for consumers in *Ronald*;
- (3) the court in *Ronald* has told the banks they have no defense or that the banks' main argument is absurd;
- (4) joining *Ronald* or any lawsuit against the consumer's mortgage lender will stop a foreclosure sale;
- (5) joining *Ronald* or any lawsuit against the consumer's mortgage lender will stop any negative reporting to the credit rating agencies;
- (6) Defendants obtained victories at each stage of *Ronald* and are prevailing in that case or in other mass joinder lawsuits;
- (7) a federal judge called the bank's primary argument absurd and kicked the bank out of Federal Court, or other statements to that effect; or
- (8) consumers in *Ronald* or in other mass joinder lawsuits had their homes awarded to them free and clear;

f. A specific number or percentage of mass joinder cases receive a successful result or other statements to that effect;

2. Violating Business and Professions Code sections 6151 and 6152, by (a) engaging in "running and capping," the practice of a non-attorney acting for consideration, in any manner or capacity, as an agent for an attorney or law firm, in the solicitation or procurement of business for the attorney or law firm, or (b) soliciting non-attorneys to commit or join in running and

1 capping;

2 3. Violating Business and Professions Code section 6155, by (a) as a non-attorney,
3 directly or indirectly referring potential clients to an attorney or law firm without seeking
4 registration as a lawyer referral service by the State Bar, or (b) as an attorney, in accepting
5 referrals of such potential clients; and

6 4. Engaging in any acts or practices that violate Business and Professions Code
7 section 17200 et seq. (Unfair Competition Law) or section 17500 et seq. (False Advertising Law).

8 IT IS FURTHER ORDERED that, pursuant to Business and Professions Code sections
9 17203 and 17535 and Government Code section 12527, until the hearing on the order to show
10 cause regarding the preliminary injunction, Defendants The Law Offices of Kramer and Kaslow,
11 a California professional law corporation and also dba K2 Law, Mass Litigation Alliance, and
12 Consolidated Litigation Group; Philip Allen Kramer, an individual; Mitchell J. Stein &
13 Associates, Inc., a California corporation; Mitchell J. Stein, an individual and dba Mitchell J.
14 Stein & Associates; Christopher Van Son, an individual, and dba The Law Offices of Christopher
15 J. Van Son and Consolidated Litigation Group; Mesa Law Group Corp., a California corporation;
16 Paul Warren Petersen, an individual; any dba, successor, affiliate, subsidiary, or other entity
17 owned, controlled, managed, or held by or on behalf of, or for the benefit of, any of them; and
18 their agents, employees, officers, representatives, successors, partners, assigns, and those acting
19 in concert or in participation with them, whether acting directly or through an corporation,
20 subsidiary, division, or other device, are also enjoined from committing or performing the
21 following acts:

22 1. Disseminating, using, relying on, or directing or allowing others to disseminate,
23 use, or rely on:

24 a. any advertisement containing any false, misleading or deceptive statement
25 or the omission of any fact necessary to make the statements made, in light of the circumstances
26 under which they are made, not false, misleading, or deceptive, in violation of Business and
27 Professions Code section 6157.1;

28 b. any advertisement containing or referring to any guarantee or warranty

1 regarding the outcome of a legal matter as a result of representation by an attorney, any agent of
2 the attorney, or any law firm or law corporation doing business in the State of California, in
3 violation of Business and Professions Code section 6157.2, subdivision (a);

4 c. any advertisement containing or referring to any statements or symbols
5 stating that the attorney or any law firm or law corporation doing business in the State of
6 California featured in the advertisement can generally obtain immediate cash or quick settlements,
7 in violation of Business and Professions Code section 6157.2, subdivision (b);

8 d. any advertisement made on behalf of an attorney or any law firm or law
9 corporation doing business in the State of California and not paid for by the attorney, law firm, or
10 law corporation that fails to disclose the business relationship, past or present, between the
11 attorney and the person paying for the advertisement, in violation of Business and Professions
12 Code section 6157.3; or

13 e. any false, misleading or deceptive advertisement for an attorney or any law
14 firm or law corporation doing business in the State of California by electronic media, in violation
15 of Business and Professions Code section 6158;

16 2. Failing to make required disclosures concerning the factual and legal
17 circumstances of results in particular cases, in violation of Business and Professions Code section
18 6158.3;

19 3. Directly or indirectly sharing legal fees with a non-attorney, in violation of
20 California Rules of Professional Conduct, rule 1-320(A);

21 4. Compensating persons or entities for the purpose of securing employment or as a
22 reward for having made a recommendation resulting in the employment of any Attorney
23 Defendant by a client, in violation of California Rules of Professional Conduct, rule 1-320(B);

24 5. Aiding persons or entities in the unauthorized practice of law, in violation of
25 California Rules of Professional Conduct, rule 1-300(A);

26 6. Making a communication that is false, deceptive and tending to mislead the public,
27 and failing to indicate clearly that their communications are advertisements, in violation of
28 California Rules of Professional Conduct, rule 1-400(D); and

1 7. Failing to provide prompt refunds, in violation of California Rules of Professional
2 Code, rule 3-700(D)(2).

3 IT IS FURTHER ORDERED that, pursuant to Business and Professions Code sections
4 17203 and 17535 and Government Code section 12527, until the hearing on the order to show
5 cause regarding the preliminary injunction, Defendants Attorneys Processing Center, LLC, a
6 California limited liability company and also dba Attorney Processing Center and Processing
7 Center; Data Management, LLC, a California limited liability company; Gary DiGirolamo, an
8 individual; Bill Merrill Stephenson, an individual; Mitigation Professionals, LLC, a California
9 limited liability company and dba K2 Law; Glen Reneau, an individual; Pate, Marier and
10 Associates, Inc., a California corporation; James Eric Pate, an individual; Ryan William Marier,
11 an individual; Home Retention Division, a business organization of unknown form; Michael
12 Anthony Tapia, an individual and dba Customer Solutions Group and Home Retention Division;
13 Lewis Marketing Corp., a California corporation; Clarence John Butt, an individual; Thomas
14 David Phanco, an individual; any dba, successor, affiliate, subsidiary, or other entity owned,
15 controlled, managed, or held by or on behalf of, or for the benefit of, any of them; and their
16 agents, employees, officers, representatives, successors, partners, assigns, and those acting in
17 concert or in participation with them, whether acting directly or through an corporation,
18 subsidiary, division, or other device, are also enjoined from committing or performing the
19 following acts:

20 1. Violating Business & Professions Code section 6125 prohibiting the unauthorized
21 practice of law, including, but not limited to:

22 a. Providing advice regarding the relief one can obtain by joining a lawsuit
23 against their lender;

24 b. Providing advice regarding legal settlement;

25 c. Providing advice regarding the impact of the lawsuit on the foreclosure
26 process;

27 d. Having consumers sign attorney retainer agreements without consulting
28 with an attorney;

1 e. Having consumers pay attorneys' fees without consulting with an attorney;
2 and

3 f. Adding consumers to any lawsuit without consulting with an attorney;
4 2. Operating as telephonic sellers, as defined in Business & Professions Code section
5 17511.1, without a certificate of registration from the Department of Justice as required by
6 Business & Professions Code section 17511.3; and

7 3. Operating as telephonic sellers without obtaining and maintaining a surety bond as
8 required by Business & Professions Code section 17511.12.

9 **ASSET FREEZE**

10 IT IS FURTHER ORDERED that, except as otherwise ordered by the Court, an
11 immediate freeze shall be placed on all monies and assets in all accounts at any bank, financial
12 institution, or brokerage firm, all certificates of deposit, and any other funds or assets, held in the
13 name of, for the benefit of, or containing funds in which any Defendant purports to own any
14 interest, or over which account authority is held by any Defendant, or any trust, partnership, joint
15 venture, person, or entity associated with any Defendant, or containing funds derived directly or
16 indirectly in the name of any Defendant, as of the date of the Complaint, including, but not
17 limited to, the following:

18 1. Any money or other consideration that any Defendant has received or will receive
19 from consumers in connection with any purported or actual lawsuit or settlement with their
20 lenders;

21 2. Any accounts maintained at any financial institution into which any Defendant,
22 their agents, employees, officers, representatives, successors, partners, assigns, and those acting
23 in concert or in participation with them, whether acting directly or through an corporation,
24 subsidiary, division, or other device, deposited any of this money, including, but not limited to,
25 the specific accounts listed in the accompanying Order Appointing Receiver and the State Bar's
26 orders to show cause and interim orders assuming jurisdiction over the law practices of Philip
27 Allen Kramer, Mitchell J. Stein, Paul Petersen, and Christopher Van Son (State Bar Interim
28 Orders Assuming Jurisdiction);

- 1 3. Any profits derived from this money;
- 2 4. Any real property purchased or maintained, in whole or in part, by any of this
3 money, or which otherwise may be used to satisfy a judgment in this action, including, but not
4 limited to, the specific properties listed in the accompanying Order Appointing Receiver;
- 5 5. Any personal property purchased or maintained, in whole or in part, by any of this
6 money, or which otherwise may be used to satisfy a judgment in this action, including, but not
7 limited to, the vehicles listed in the accompanying Order Appointing Receiver; and
- 8 6. Any money or other consideration that any Defendant has received or will receive
9 as a result of any proposed or actual lawsuit or settlement, including, but not limited to, money or
10 other consideration obtained from consumers, potential clients, existing clients, and named
11 plaintiffs.

12 IT IS FURTHER ORDERED that within five (5) business days following service of this
13 Order, each Defendant shall:

- 14 1. Repatriate to the United States all funds, documents, or assets in foreign countries
15 held either by them, for their benefit, or under their direct or indirect control, jointly or singly, and
- 16 a. Notify the People and the receiver appointed in this action (Receiver) of
17 the name and location of the financial institution or other entity that is the recipient of such funds,
18 documents, or assets; and
- 19 b. Serve this Order on any such financial institution or other entity;
- 20 2. Provide the People and Receiver with a full accounting of all funds, documents,
21 and assets outside of the territory of the United States held either by them, for their benefit, or
22 under their direct or indirect control, jointly or singly; and
- 23 3. Hold and retain all repatriated funds, documents, and assets and prevent any
24 transfer, disposition, or dissipation whatsoever of any such assets or funds.

25 IT IS FURTHER ORDERED that Defendants are hereby enjoined, until further order of
26 this Court, from:

- 27 7. Transferring, encumbering, selling, concealing, pledging, hypothecating,
28 assigning, creating a security interest in, mortgaging, spending, withdrawing, disbursing,

1 conveying, gifting, devising, concealing, secreting, dissipating, or otherwise disposing of
2 any funds, property, coins, shares of stock, or other assets subject to the asset freeze,
3 wherever located, that are (a) owned in whole or in part or controlled by any Defendant, in
4 whole or in part, (b) in the actual or constructive possession of any Defendant, (c) held by
5 an agent of any Defendant on its behalf, or (d) owned, controlled by, or in the actual or
6 constructive possession of, or otherwise held for the benefit of, any Defendant or any
7 corporation, partnership, or other entity directly or indirectly owned or controlled by any
8 Defendant, as of the date of this Order;

9 8. Committing or permitting any waste on any property subject to the asset
10 freeze or any part thereof;

11 9. Doing any act which will, or which will tend to, impair, defeat, divert,
12 prevent, or prejudice the preservation of the property subject to the asset freeze or its
13 income, rents, issues, profits, proceeds, sales, and all other monies arising therefrom;

14 10. Collecting or attempting to collect payment, in whole or in part, from any
15 consumer who hired Defendants prior to the entry of this Order;

16 11. Opening or causing to be opened any safe deposit boxes titled in the name of
17 any Defendant or subject to access by any Defendant; or

18 12. Incurring charges or cash advances on any credit or debit card issued in the
19 name, singly or jointly, of any Defendant, or any corporation, partnership, or other entity
20 directly or indirectly owned or controlled by any Defendant.

21 The freeze imposed by this Order shall not be construed to prohibit the State Bar of
22 California from disbursing funds that are held in trust fund accounts or client funds
23 accounts established pursuant to Rule 4-100 of the California Rules of Professional
24 Conduct and that are held for the benefit of legal services clients.

25 ASSET INFORMATION

26 IT IS FURTHER ORDERED that each Defendant shall provide the People and Receiver
27 with the following information regarding its assets (Asset Information):

28 1. For any real property (i) owned in whole or in part or controlled by any

1 Defendant, in whole or in part, (ii) in the actual or constructive possession of any Defendant,
2 (iii) held by an agent of any Defendant on its behalf, or (iv) owned, controlled by, or in the
3 actual or constructive possession of, or otherwise held for the benefit of, any Defendant or
4 any corporation, partnership, or other entity directly or indirectly owned or controlled by
5 any Defendant, as of the date of this Order, the legal description and address of each
6 property.

7 2. For each and every bank account or investment account, including checking
8 accounts, savings accounts, money market accounts, retirement accounts, mutual fund and
9 stock brokerage accounts, that are (i) owned in whole or in part or controlled by any
10 Defendant, in whole or in part, (ii) in the actual or constructive possession of any Defendant,
11 (iii) held by an agent of any Defendant on its behalf, or (iv) owned, controlled by, or in the
12 actual or constructive possession of, or otherwise held for the benefit of, any Defendant or
13 any corporation, partnership, or other entity directly or indirectly owned or controlled by
14 any Defendant, as of the date of this Order, the account number, name(s) on the account,
15 current balance, and the name and contact information of the financial institution.

16 3. For all personal property with a fair market value in excess of \$2,500, that is
17 (i) owned in whole or in part or controlled by any Defendant, in whole or in part, (ii) in the
18 actual or constructive possession of any Defendant, (iii) held by an agent of any Defendant
19 on its behalf, or (iv) owned, controlled by, or in the actual or constructive possession of, or
20 otherwise held for the benefit of, any Defendant or any corporation, partnership, or other
21 entity directly or indirectly owned or controlled by any Defendant, as of the date of this
22 Order, a list of the property, the location of the property, and a reasonably detailed
23 description of the property, including, as applicable, serial numbers or other identification
24 numbers and registration information.

25 4. Each Defendant shall provide this Asset Information by overnight delivery
26 service, facsimile, email, or hand delivery to:

27 a. Deputy Attorney General James Toma, 300 South Spring Street,
28 Suite 1702, Los Angeles, CA 90013, fax (213) 897-4951, email james.toma@doj.ca.gov;

1 and

2 b. Receiver Thomas McNamara, 655 West Broadway, Suite 1600, San
3 Diego, CA 92101-8494, fax (619) 696-9269, email mcnamarat@ballardspahr.com.

4 5. The Asset information must be received by the People and Receiver within
5 five (5) business days of service of this Order on Defendants or their counsel.

6 6. Defendants shall provide to the People and Receiver such other financial
7 statements as the People or Receiver may request in order to monitor Defendants'
8 compliance with this Order.

9 **CONSENT TO RELEASE FINANCIAL RECORDS**

10 IT IS FURTHER ORDERED that each Defendant shall provide the People and Receiver
11 with its consent to access records and documents pertaining to Defendant's property or assets that
12 are held by financial institutions outside the territory of the United States (Consent).

13 1. The Consent shall state: "I, _____, of the State of _____ in the
14 United States of America, do hereby direct any bank or trust company at which I have a bank
15 account of any kind or at which a corporation or other entity has a bank account of any kind upon
16 which I am authorized to draw, and its officers, employees, and agents, to disclose all information
17 and deliver copies of all documents of every nature in your possession or control which relate to
18 the said bank account(s), to any attorney of The People of the State of California in the matter of
19 *People v. The Law Offices of Kramer and Kaslow et al.*, pending in the Superior Court for the
20 State of California, County of Los Angeles, and this shall be irrevocable authority for so doing.
21 This direction is intended to apply to the laws of countries other than the United States that
22 restrict or prohibit the disclosure of bank information without the consent of the holder of the
23 account, and shall be construed as consent with respect thereto, and the same shall apply to any of
24 the bank accounts for which I may be a relevant principal." The consent shall be signed by
25 Defendant.

26 2. The Consent must be received by the People and Receiver within five (5) business
27 days of service of this Order on Defendants or their counsel.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Defendants shall file and serve their written opposition, if any, on or before
8/26 /, 2011. *Fox + Overnight mail*

4. Plaintiff shall file and serve its written reply, if any, on or before
8/31, 2011.

DATED: *8/15/11*

By: *Frank Johnson*
Judge of the Superior Court

FRANK J. JOHNSON